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IN THE HIGH COURT OF JUDICATURE AT BILASPUR
CHHATTISGARH

M.A. NO. 769 /2003

Single Bench

APPELLANT
DEFENDANT

: Raigarh Paper & Board Mill Limited
Head office at Village Chaple,
Tahsil Kharsia District Raigarh

P. R. No. - 1225/03
Presented by Shri. H. Melviya
dated 02.08.03

VERSUS

RESPONDENT
PLAINTIFF

: M/s Bajaj Construction
Danipara, Raigarh Tahsil and
District Raigarh (C.G.)

MISC APPEAL U/O ORDER 43 RULE 1 & 2 OF CODE
OF CIVIL PROCEDURE

Sub Sec. (9) of

No. Adv. 18-8

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

M.A. 769/2003

मामला क्रमांक

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	12.11.2003 Shri N.K. Malviya for the appellant. Shri Amit Sharma for the Caveator/respondent. With the consent of the parties the matter is heard finally. Counsel for the appellant submits that the order of the court below directing him to furnish Bank Guarantee within 10 days is not justified. He further submits that the Bank Guarantee is excessive. Learned counsel for the respondent on the other hand submits that an amount of Rs. 8,14,584/- is outstanding on the date of the impugned order. It is submitted that though initially the dispute was for Rs. 2,13,287/- but at the time of passing order it has become Rs. 8,14,544/- with interest and in that view of the matter the direction of the Court to furnish Bank Guarantee in sum of Rs. 10 lakhs is well justified and the Court has given reasons for the same. It is also contended that the petitioner has entered into an agreement to dispose of the factory on 20.9.2001 as mentioned in the para 6 of the impugned order dated 24.6.2003 and the Court below after considering all the documents concluded in para 7 of its order which reads as under:	

GRP.

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	"इन समस्त दस्तावेजों के अवलोकन से यह स्पष्ट रूप से प्रगट होता है कि प्रतिवादी उपरोक्त रायगढ़ पेपरएण्ड बोर्ड मिल स्थित ग्राम चपले को आर.डी. गोड प्रायवेट लिमिटेड के पास विक्रय करने हेतु संविदा कर लिया है और विक्रय करना चाहता है। संविदा इकरारनामा की कंडिका-3 के अवलोकन से यह भी स्पष्ट है कि प्रतिवादी का उपरोक्त फैक्ट्री आर.डी. गोड प्रायवेट लिमिटेड के द्वारा फैक्ट्री से संबंधित सभी बकाया देनदारी को छोड़कर फैक्ट्री कय किया जा रहा है।" Having considered the facts and circumstances of the case and material on record, in the opinion of this Court there is no infirmity warranting interference in the impugned order. However, ends of justice will be served if a direction is given to furnish a Bank Guarantee for Rs. 8 lakhs within a month. It is also pointed out that the trial Court is also to appoint an Arbitrator. Let the arbitrator be appointed as per law and the matter be decided as early as possible preferably within one year. With the direction and observation aforesaid, this appeal and M.C.P.No 1269/2003 and I.A. No. 9158/2003 stand disposed of. C.C. as per rules.	Sd/- Fakhruddin Judge

Rao/-